

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3412 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

CHANDULAL RAGHAVJI

Versus

INSPECTOR GENERAL OF POLICE

Appearance:

MR NITIN M AMIN for Petitioner

MR SP HASURKAR for Respondent No. 1, 2, 3, 4

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/06/2000

ORAL JUDGEMENT

1. Heard the learned counsel for the parties.

2. Challenge has been made by the petitioner,
Unarmed Police Constable of the Police Department of

Government of Gujarat, to the Orders passed by the respondent No.2 and 3 in the matter of disciplinary action taken against him for the misconduct which was found to be proved in the department enquiry. The disciplinary authority has ordered for his dismissal which order has been confirmed in the appeal and ultimately, in the revision application by the State Government. The Enquiry Officer found the petitioner guilty of the charge levelled against him. On receipt of this enquiry report and examination thereof, the disciplinary authority was prima facie satisfied that the petitioner should be dismissed from the services and accordingly, a show cause notice was given. After considering the reply of the petitioner to this notice, under order dated 9/5/1984, he was dismissed from the services. The appeal filed by the petitioner was came to be dismissed by the appellate authority under the order dated 13th September, 1984. The petitioner preferred a revision application and it was rejected under the order dated 30th September, 1985. The petitioner has further filed a revision application to the Home Department which was also dismissed under the order dated 7/12/1988. Hence, this Special Civil Application.

3. The learned counsel for the petitioner contended that the charge that the petitioner has knocked the grill of the quarter where 4 girls were sleeping in the verandah at 2.45 am on the date of the incident with dishonest intention, has not been found proved. When this was not found proved, then the conduct of the petitioner, what remains subject matter of the enquiry, was not that much of serious where the petitioner should have been dismissed from the services. It has next been contended that out of 4 girls, 3 girls have turned hostile and all the authorities have committed grave error in relying upon the statements of the hostile witnesses and then, to reach to the conclusion only on the basis of uncorroborated and inadmissible statements. It is next been contended that there is no evidence on the record to hold the petitioner guilty of the charges levelled against him. More concentration of the contentions raised by the learned counsel for the petitioner is on the quantum of the punishments.

4. The learned counsel for the respondents supported the order passed by the authorities.

5. It is no more res integra that in matter where this court is sitting under Article-226 of the Constitution, it has no power of reappreciation of the evidence and further to record its own finding of fact.

It is also not permissible to go on the question of insufficiency of the evidence in the matter. The writ petition is maintainable in a matter where there is complaint against decision making process of the authorities. It is also no more res integra that in the matter what punishment has to be given to delinquent for the proved misconduct, this Court has very very limited power of judicial review. Except in a case where it finds that the punishment imposed is shocking to the conscience, only then it may interfere and not otherwise.

6. The grill of verandah where 4 girls were sleeping in the quarter has been knocked by the petitioner at 2.45 am., is not in dispute. The Enquiry Officer has not accepted this part of the charge that with dishonest intention, the petitioner has knocked this grill. It is hardly of any substance, for the reason that knocking of the grill of verandah where 4 girls were sleeping at 2.45 am by the petitioner, a police employee, is itself a fact sufficient to draw an inference that it was with dishonest intention. For what, this Constable has gone to the place where these 4 girls were sleeping in the night at odd hours. It is not the case of the petitioner that he was on patrolling duty. The very fact that in the night at odd hours, the petitioner knocked the grill of verandah where 4 girls were sleeping, is a serious matter and when it is proved, then only natural consequence is that it is done with the dishonest intention. The petitioner has failed to furnish any explanation what for he has gone to that place in the late night. The petitioner, being a police employee, who is expected to maintain high degree of discipline and to serve the peoples, his intention is certainly dishonest where he knocked the grill of the verandah where 4 girls were sleeping in the late night. Such employee certainly deserves to be removed from the services. He is not the fit person to be retained in the Police service where his duty is to protect the citizens. It is his this dishonest conduct itself is sufficient, on proof of the same, for his dismissal from the services. All three authorities in this case have not committed any illegality to dismiss the petitioner from the services. Even if it is taken that out of 4 girls, 3 girls turned hostile, evidence still remains there on which the authority could have recorded the finding of the fact on the charge framed against the petitioner. As said earlier, sufficiency of the evidence and appreciation of evidence, is not within the ambit and the scope of interference of this Court. If there is evidence, then it is open to this authority to appropriately punish the delinquent. It is not the case where there is no

evidence. The penalty which has been given to the petitioner for the charge proved, is not disproportionate to guilt or harsh. It is not the case where it can be taken to be a case where penalty given to the petitioner is shocking to the judicial conscience of this court.

7. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted earlier stands vacated. No order as to costs.

(S.K. Keshote, J.)
(kamlesh)